



Sun Life Assurance
Company of Canada
SC 4328
One Sun Life Executive Park
Wellesley Hills, MA 02481-5699

1-800-247-6875
Fax: 1-781-304-5537

October 5, 2015

Frederick S. Spencer, P.A.
409 East Sixth Street
Mountain Home, AR 72653

Re: Claimant: Cathy Denton
Policy No.: 201408
Claim No.: 110914-05991-00 – Long Term Disability

Dear Attorney Spencer:

This letter is being written in regards to Cathy Denton's claim for Long Term Disability (LTD) benefits under the above referenced policy (201408), and is meant to provide you with an update on the status of her claim.

As letter dated September 10, 2015, advised, our appeals department has concluded that the documentation on file does support that Ms. Denton would be considered Totally Disabled. Therefore, we are pleased to inform you that we have approved payment of benefits at this time.

Policy Definitions and Provisions:

As advised in our correspondence to her dated September 12, 2014, the policy under which she is covered has an Elimination Period of 180 days. This means that she must be Totally Disabled and/or Partially Disabled under the policy for at least 181 continuous days before benefits become payable. According to our records, Ms. Denton's date of disability was May 2, 2014. Therefore, her Elimination Period was satisfied on October 28, 2014, and LTD benefits began to accrue as of October 29, 2014.

The policy contains the following definitions and provisions, which are related to her claim determination:

"Elimination Period means a period of continuous days of Total or Partial Disability for which no LTD Benefit is payable. The Elimination Period is shown in Section I, Schedule of Benefits and begins on the first day of Total or Partial Disability.

If the Employee returns to work for 15 working days or less during the Elimination Period and cannot continue working, the Total or Partial Disability will be treated as continuous. However, only those days that the Employee is Totally or Partially Disabled will count toward satisfying the Elimination Period."

PLAINTIFF'S EXHIBIT A

Per section I, Schedule of Benefits, the Elimination Period is:

"180 days."

"Total Disability or Totally Disabled" means during the Elimination Period and the next 36 months, the Employee, because of Injury or Sickness, is unable to perform the Material and Substantial Duties of his Own Occupation. After Total or Partial Disability benefits combined have been paid for 36 months, the Employee will continue to be Totally Disabled if he is unable to perform with reasonable continuity any Gainful Occupation for which he is or becomes reasonably qualified for by education, training or experience.

The loss of a professional or occupational license or the inability to obtain or qualify for a license for any reason does not, in itself, constitute Total Disability.

To qualify for benefits, the Employee must satisfy the Elimination Period with the required number of days of Total Disability, Partial Disability or a combination of days of Total and Partial Disability."

"Injury" means bodily impairment resulting directly from an accident and independently of all other causes. Any Injury must occur and any disability must begin while the Employee is insured under this Policy."

"Sickness" means illness, disease or pregnancy. Any disability, because of Sickness, must begin while the Employee is insured under this Policy."

"Material and Substantial Duties" means, but is not limited to, the essential tasks, functions, skills or responsibilities required by employers for the performance of the Employee's Own Occupation. Material and Substantial Duties does not include any tasks, functions, skills or responsibilities that could be reasonably modified or omitted from the Employee's Own Occupation."

"Own Occupation" means the usual and customary employment, business, trade, profession or vocation that the Employee performed as it is generally recognized in the national economy immediately prior to the first date Total or Partial Disability began. Own Occupation is not limited to the job or position the Employee performed for the Employer or performed at any specific location."

"Total Monthly Earnings" means the Employee's basic monthly earnings as reported by the Employer immediately prior to the first date Total or Partial Disability begins. Total Monthly Earnings does not include commissions, bonuses, overtime pay or any other extra compensation.

If an Employee is paid on an hourly basis, Total Monthly Earnings will be based on the Employee's hourly rate of pay, but will not exceed 40 hours per week."

"Other Income Benefits"

Other Income Benefits are those benefits provided or available to the Employee while a Long Term Disability Benefit is payable. These Other Income Benefits, other than retirement benefits, must be provided as a result of the same Total or Partial Disability payable under this Policy. Other Income Benefits include:

1. The amount the Employee is eligible for under:
 - a. Workers' Compensation Law; or
 - b. Occupational Disease Law; or
 - c. Unemployment Compensation Law; or
 - d. Compulsory Benefit Act or Law; or
 - e. an automobile no-fault insurance plan; or
 - f. any other act or law of like intent.
2. The Railroad Retirement Act (including any dependent benefits).
3. Any labor management trustee, union or employee benefit plans that are funded in whole or in part by the Employer.
4. Any disability income benefits the Employee is eligible for under:
 - a. any other group insurance plan of the Employer;
 - b. any governmental retirement system as a result of the Employee's job with his Employer.
5. The benefits the Employee receives under his Employer's Retirement Plan as follows:
 - a. any disability benefits;
 - b. the Employer-paid portion of any retirement benefits.

(Disability benefits that reduce the Employee's accrued retirement benefit will be treated as a retirement benefit. Retirement benefits do not include any amount rolled over or transferred to any other retirement plan as defined in Section 402 of the Internal Revenue Code.)
6. The disability or retirement benefits under the United States Social Security Act, or any similar plan or act, as follows:
 - a. Disability benefits the Employee is eligible to receive.
 - b. Disability benefits the Employee's spouse, child or children are eligible to receive because of the Employee's Total or Partial Disability unless the dependent benefits are paid directly to the divorced spouse or to the children in custody of the divorced spouse.
 - c. Retirement benefits received by the Employee.
 - d. Retirement benefits the Employee's spouse, child or children receive because of the Employee's receipt of retirement benefits unless the dependent benefits are paid directly to the divorced spouse or to the children in custody of the divorced spouse.

If an Employee's Total or Partial Disability begins after Social Security Normal Retirement Age, Social Security Retirement Benefits will not be offset if, prior to his Total or Partial Disability, he was already receiving Social Security Retirement Benefits.

7. The amount the Employee receives from any accumulated sick leave.
8. Any salary continuation paid to the Employee by his Employer which causes the Net Monthly Benefit, plus Other Income Benefits and any salary continuation to exceed 100% of the Employee's Total Monthly Earnings. The amount in excess of 100% of the Employee's Total Monthly Earnings will be used to reduce the Net Monthly Benefit.
9. Any amount due to income replacement or lost wages the Employee receives by compromise, settlement or other method as a result of a claim for any Other Income Benefit.

10. Any amount the Employee receives from a voluntary separation of employment agreement from the Employer including severance pay or any other income in settlement of an employment contract.

Other Income Benefits will include any amount described above which would have been available to the Employee had he applied for that benefit."

"Required Application for Other Income

An Employee must apply for any Other Income Benefits for which the Employee may be eligible. If such benefits are denied, the Employee must appeal the denial to all administrative levels Sun Life deems necessary. Sun Life has the right to receive from the Employee written documentation of the Employee's pursuit of Other Income Benefits."

"Estimated Other Income

Sun Life has the right to estimate the amount of Other Income Benefits the Employee is eligible to receive during an Employee's Total or Partial Disability and reduce the LTD benefit payment by the estimated amount. Sun Life will estimate the amount if, at the time of calculating any LTD benefit payments, the Other Income Benefit an Employee may be eligible to receive has not been awarded nor denied or if the Other Income Benefit has been denied and is being appealed. The estimate will be used to reduce the amount of the LTD benefit payments until the Other Income Benefit has been awarded or denied. However, the estimate will not be used if the Employee meets the following conditions:

1. the Employee has applied for the Other Income Benefits; and
2. the Employee agrees to appeal any denials of Other Income Benefits to all administrative levels Sun Life deems necessary; and
3. the Employee completes and signs the Sun Life Reimbursement Agreement."

"Adjustment of Benefits

The Employee must notify Sun Life in writing, within 31 days of receipt of notice, of the amount of Other Income Benefits when it is approved or if the amount is adjusted (other than for cost of living increases). Sun Life will make an adjustment to the Net Monthly Benefit payment when Sun Life receives the written notice of the amount of the Other Income Benefit.

If after Sun Life makes an adjustment to the Net Monthly Benefit the Employee has been underpaid, Sun Life will immediately make a lump sum refund of the amount that has been underpaid to the Employee.

If after Sun Life makes an adjustment to the Net Monthly Benefit the Employee has been overpaid, the Employee must reimburse Sun Life the amount of the overpayment within 31 days of the award. Sun Life has the right to reduce or eliminate future LTD benefit payments until the amount of the overpayment has been repaid. During the overpayment reimbursement period, the Minimum Monthly Benefit will not apply."

The policy also contains a Retro Disability Benefit which states:

"Retro Disability Benefit

If an Employee is receiving a Total Disability Benefit, an additional Retro Disability Benefit may be payable if Sun Life receives proof that the Employee had a Retro Disability that was due to the same Injury or Sickness that caused Total Disability.

The Retro Disability Benefit is the Employee's Gross Monthly Benefit multiplied by the number of months (each 30 days) in the Elimination Period. This amount is not subject to reduction due to Other Income.

The Retro Disability Benefit will be paid in a single lump sum amount. Sun Life must receive proof that the Employee had a Retro Disability within 90 days following the date the Employee completes the Elimination Period.

Any Long Term Disability Benefits payable after completion of the Elimination Period will be subject to the terms of this Policy, including reductions by any Other Income.

Retro Disability means an Injury or Sickness that results in:

1. Hospital Confinement that begins on the date the Employee becomes Totally Disabled or within 48 hours of the date the Employee's Total Disability begins; and
2. such Hospital Confinement continues for at least 14 consecutive days; and
3. the Employee's Total Disability remains continuous throughout the Elimination Period.

Hospital Confinement means admission to a Hospital as a registered inpatient due to an Injury or Sickness. The confinement must be on the advice of a Physician and medically necessary according to generally accepted medical standards. Confinement to an emergency room, outpatient treatment room, or observation unit is not considered a Hospital Confinement.

Hospital means a facility licensed in the applicable jurisdiction that provides medical care and treatment to sick and injured persons on an inpatient basis with 24 hour nursing service by or under the supervision of a Physician. Hospital does not include a rest home, a place of convalescence, rehabilitative care, custodial care or a place primarily for the treatment of drug addicts or alcoholics."

Accordingly, the Retro Disability Benefit has been denied, as she was not hospitalized within 48 hours of her Date of Disability.

Claim Determination:

Based upon the totality of information contained in her LTD claim file, consisting of all available medical, occupational and financial information, we find that it is reasonable that she would be unable to perform the Material and Substantial Duties of her Own Occupation as a Store Manager from her May 2, 2014 date of disability through the present.

Benefits have been calculated as follows:

Basic Monthly Earnings	\$	3,909.88
Monthly Gross Benefit at 60%	\$	2,345.93
Less Social Security Disability	\$	1,401.00

As discussed, her initial benefit checks representing benefits payable from October 29, 2014 through September 30, 2015, have been issued and mailed out to you under separate cover. These benefits total \$9,543.79 less FICA withholding for a net benefit of \$9,504.03 for the period of October 29, 2014 through August 31, 2015, and \$944.93 for the period of September 1, 2015 through September 30, 2015.

Benefit checks are issued on a monthly basis subject to ongoing proof of Total or Partial Disability. Checks are issued at the end of each month. To assist you with providing ongoing proof of claim, we will periodically send you new attending physician statements, statements of information, and activity questionnaires. In addition to these forms, please note that we may require other proof from you to determine if she continues to qualify for benefits.

The policy provides a Long Term Disability benefit for a potential maximum benefit till 66 and 6 months. Please refer to the definition of Total Disability in the Group Policy and employee booklet for additional information concerning these disability standards.

Our Rehabilitation Services Unit will be reviewing her claim to determine if she could benefit from return to work assistance. As part of that review, we may contact you directly. Any rehabilitation services we offer are provided free of charge to her. While participating in an approved rehabilitation plan, she may be eligible for additional benefit incentives, equal to 10% of your gross monthly benefit for up to 12 months. Please be advised that if she does not participate in the rehabilitation assessment process, or if she refuses to participate in a rehabilitation plan without good cause, we have the right to terminate her benefit under the Group Policy.

Please also be advised that the amount of her benefits may be reduced by income she receives from other sources. These sources include Social Security Disability and Retirement, Workers' Compensation, state disability, employer sick leave or salary continuation programs. Please refer to the Other Income provision of the Group Policy and the employee booklet for additional information. If she has applied for or are currently receiving any of these benefits, please let us know the status of her applications or provide us with a copy of any award showing the benefit amount and period.

Her disability coverage is offered through her employer. As such, it may be considered a third-party sick pay plan, and the benefits provided may be taxable to her. If you have any questions or concerns in this regard, you should discuss them with a tax professional or the Internal Revenue Service (<http://www.irs.gov>). We may be able to withhold federal taxes for her upon your written request. The minimum withholding amount is \$88.00 per month, per IRS publication 15-A "Employers Supplemental Tax Guide". If you wish to take advantage of this optional withholding service, please send a written request to us indicating the amount to be withheld for federal income taxes. Please include a completed IRS Form W4S with your request.

Right to Appeal:

If you disagree with any part of our decision, you may request in writing a review within 180 days after receiving this notice.

You may submit written comments, documents, records or other information relating to your claim for benefits, and may request free of charge copies of all documents, records, and other information relevant to your claim for benefits.

We will review your claim on receipt of the written request for review, and will notify you of our decision within a reasonable period of time but not later than 45 days after the request has been received. If an extension of time is required to process the claim, we will notify you in writing of the special circumstances requiring the extension and the date by which we expect to make a determination on review. The extension cannot exceed a period of 45 days from the end of the initial review period.

If a period of time is extended because we did not receive information necessary to decide your claim, the period for making the decision on review is tolled from the date we send notice of the extension to you until the date on which you respond to the request for additional information. You will have 45 days to provide the specified information.

You may have the right to bring a civil action under the Employee Retirement Income Security Act of 1974 (ERISA), §502(a) following an adverse determination on review.

Your request for a review should be addressed to:

Sun Life Financial
Appeals Unit
PO Box 81601
Wellesley Hills, MA 02481-0006

Should you have any questions about this claim, or if we may be of any assistance, please feel free to call me at 1-800-432-1102 ext. 303-6342. Our fax number is 1-781-304-5537. If you fax anything to our attention, please reference the control number on all of your submissions.

Sincerely,



John Curtin Jr.
Sr. Benefit Analyst II
Group Long Term Disability
SC 4328